IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 6718 of 2005

Between:

C. Chandra Basha, S/o. C.A. Azeez, Muslim,
E.No. 409044, Muslim R/o. D.No. 4/302,

K.L. Road, Vidhyaranyanagar, Anantapur,
Anantapur District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Ananthapur Depot,

Anantapur.
2 The Divisional Manager, APSRTC,

Ananthapur Division, Anantapur.
3 The Regional Manager, APSRTC,

Ananthapur Revision Region, Anantapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ declaring the Proceedings No. 02/62(156)/93-ATP dated 26-8-1994 of the 1st respondent, Proceedings bearing No. Ty/19(295)/2001-DVM-A
dt. 22-6-2002 of the 2nd respondent Proceedings No. PA/675(11)/03-RM-A dt. 31-5-2003 of the 3rd respondents as illegal, arbitrary, in violation of Principles of natural justice and in violation of Art. 14 and 21 of the Constitution of India and consequentially direct the respondent to add 6 month annual increments to the pay of the petitioner and pass such other or further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.Y.VENUGOPAL REDDY

Counsel for the Respondent Nos.1 to 3: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the admission stage made the following:

ORDER:

Declaring the action of the 1st respondent in imposing penalty vide proceedings No.02/62(156)/93-ATP dated 26.08.1994, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for certain irregularities. He submitted his explanation. The 1st respondent passed an order on 26.08.1994 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of six months, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal and review before the 2nd and 3rd respondents and the same were rejected. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of penalty of deferment of annual increment for a period of six months with cumulative

effect, imposed by the 1st respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of six months without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

Dated: 30.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Ananthapur Depot, Ananthapur

2. The Divisional Manager, APSRTC,

Ananthapur Division, Anathapur

3. The Regional Manager, APSRTC,

Amamthapur Region, Ananthapur

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